IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 287 OF 2006

IN

MISC.CIVIL APPLICATION NO. 844 OF 2005

MR. APOLINARIO FRANCISCO F. SANTANA FERNANDES AND ANR., ...Applicants

Versus

MR. JOSE JULIAO MARINO CIPRIANO RODRIGUES AND ANR., ...Respondents

Mr. A. F. Diniz, Advocate for the applicants.

Ms. Shreya Naik, Advocate for the respondents.

Coram:- A. P. LAVANDE, J.

Date:- 4th May, 2006

P.C.

Heard Mr. Diniz, learned Counsel for the applicants and Ms. Naik, learned Counsel for the respondents. By this application, the applicants seek review of Order dated 20.4.2006 passed by this Court by which delay of 105 days in filing the review application has been condoned. In the said order, it has been mentioned that the respondents though served were absent.

It is the case of the applicants that applicant No.1, who is the husband of applicant No.2, was present in the Court on 20.4.06. According to the applicants, applicant No.1 is a rustic Villager and, therefore, he could not point out to the Court that he was present at the time when the order was passed. The statement made in the application that applicant No.1 was present in the Court on 20.4.06 which is

supported by an affidavit of applicant No.1 has not been disputed by the learned Counsel for the respondents.

That being the position, in my opinion, the applicants are entitled to be heard before deciding the Misc. Civil Application No.844/05. Hence, the review application is allowed. The Order dated 20.4.06 is set aside. The application for condonation of delay shall be decided after hearing both sides. Application stands disposed of. At the request of Mr. Diniz, Misc. Civil Application No.844/05 be placed for hearing one week after summer vacation.

A. P. LAVANDE, J.

ssm.